

ENTERED

March 09, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

§

VS.

§

MIGUEL RUIZ JR.

§

§

CRIMINAL ACTION NO. 2:05-CR-643-2

ORDER

Miguel Ruiz, Jr. (Ruiz), filed a motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c). D.E. 250. The motion is denied.

Ruiz was convicted of possession with intent to distribute 4.83 kilograms of cocaine and was sentenced to 210 months imprisonment in the Bureau of Prisons in 2006. D.E. 99. Before sentencing, the Probation Department prepared Ruiz' Presentence Investigation Report (PSR). D.E. 92. Ruiz was held accountable for 6.81 kilograms of cocaine and also qualified as a career offender which increased his base offense level. *Id.*, ¶¶ 26-28. His criminal history points resulted in application of criminal history category VI. Ruiz' guideline sentencing range was 292 to 365 months imprisonment, with a statutory minimum sentence of 10 years. *Id.*, ¶¶ 62, 63.

At sentencing, the Court adopted the PSR with changes and reduced his offense level to 34 before acceptance of responsibility. After considering the 3553(a) factors, the Court sentenced Ruiz to 210 months imprisonment, but did not reject the career offender finding. D.E. 291. Ruiz filed a motion for sentence reduction pursuant to Amendment 782 that this Court denied based upon his career offender status. D.E. 227, 229. Ruiz appealed that decision to the Fifth Circuit Court of Appeals which held that he did not qualify for a sentence reduction. D.E. 248.

Ruiz' present motion seeks a sentence reduction based upon post-sentencing rehabilitation.

This Court has authority to modify or correct a previously imposed sentence only in the “limited number of circumstances” set out in 18 U.S.C. § 3582(c). *United States v. Ross*, 557 F.3d 237, 238 (5th Cir. 2009); *United States v. Bridges*, 116 F.3d 1110, 1112 (5th Cir. 1997). These circumstances are limited. *Ross*, 557 F.3d at 238; 18 U.S.C. § 3582(c). Ruiz does not fit within the exceptions provided by § 3582(c).

Although the Court congratulates Ruiz on his efforts to remain free of addictive behavior and to prevent future errors of judgment when he is released from prison, this Court is not authorized to reduce his sentence on that basis. For that reason, Ruiz’ motion to reduce sentence (D.E. 250) is DENIED.

SIGNED and ORDERED this 9th day of March, 2017.



Janis Graham Jack
Senior United States District Judge